

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Feb 08, 2023

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

JESSE ANTONIO SOTO,

Defendant.

NO: 2:22-CR-36-RMP-1

PRETRIAL ORDER AND ORDER
GRANTING MOTION TO
CONTINUE

BEFORE THE COURT is Defendant's Motion to Continue Trial, ECF No. 42, and Motion to Expedite hearing of the same, ECF No. 43. Defendant moves for a continuance of his trial to allow additional time to litigate his Motion to Suppress and otherwise prepare for trial. *See* ECF No. 42 at 2. The Government does not object to a continuance in this matter. *Id.* at 1.

A trial date of March 13, 2023, would deprive defense counsel of adequate time to obtain and review discovery and provide effective preparation, taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(7). Therefore, the Court finds that the ends of justice served by ordering a continuance of proceedings in this

1 matter outweigh the best interests of the public and Defendant's right to a speedy
2 trial, pursuant to 18 U.S.C. §3161(h)(7)(A).

3 Accordingly, **IT IS HEREBY ORDERED:**

4 1. Defendant's Motion to Continue Trial, **ECF No. 42**, is **GRANTED**.

5 2. Defendant's Motion to Expedite, **ECF No. 43**, is **GRANTED**.

6 3. The current trial date of March 13, 2023, is **STRICKEN** and **RESET** to
7 **June 5, 2023**, at **8:45 a.m.** commencing with a **final** pretrial conference at **8:30 a.m.**

8 All hearings shall take place in **Spokane**, Washington.

9 4. The current pretrial conference date of February 14, 2023, is
10 **STRICKEN** and **RESET** on **May 9, 2023**, at **2:00 p.m.**

11 5. Supplemental expert witness disclosure are due by **April 18, 2023**.

12 6. Discovery motions and any additional motions to suppress shall be filed
13 by **March 21, 2023**; responses are due **April 18, 2023**; and replies are due **May 2,**
14 **2023**. Counsel shall note their motions for hearing at the pretrial conference on
15 **May 9, 2023**. LCrR 12(c)(2).

16 7. A second pretrial conference is **SET** on **May 23, 2023**, at **9:30 a.m.**

17 8. Motions in limine shall be filed by **May 2, 2023**; responses are due **May**
18 **9, 2023**; and replies are due **May 16, 2023**. Counsel shall note their Motions in
19 Limine for hearing at the pretrial conference on May 23, 2023.

20 9. Counsel for defense shall notify Defendant of all hearings and ensure
21 Defendant's attendance at court.

1 **10.** Motions to Expedite, if any, shall be filed separately and noted for
2 hearing two (2) days from the date of filing, after informing opposing counsel of
3 such.

4 **11.** Trial briefs, requested voir dire, witness lists, jointly proposed jury
5 instructions, and a table of proposed jury instructions shall be filed and served by
6 **May 26, 2023**, for the Court's consideration.

7 **(a)** The jointly proposed jury instructions should address only issues that are
8 unique to this case and shall include instructions regarding the elements of
9 each count, any necessary definitions, and a proposed verdict form.

10 **(b)** The parties shall provide the Court electronically with a table of
11 proposed, cited jury instructions. This table shall include:

12 **(i)** The instructions on which the parties agree;

13 **(ii)** The instructions that are disputed; and

14 **(iii)** The basis of any objection.

15 **(iv)** The jury instruction table shall be substantially in the following
16 form:

17 Proposed by	Instruction #	9th Cir. Cite	Objection	Response to objection
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18 **(c)** In addition to the jury instruction table, each party shall address any
19 objections they have to instructions proposed by any other party in a
20 memorandum filed by **May 26, 2023**. The parties shall identify the specific
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portion of any proposed instruction to which they object supported by legal authority that supports the objection. Failure to file an objection to any instruction may be construed as consent to the adoption of an instruction proposed by another party.

12. *Pretrial Exhibit Stipulation*

(a) The parties shall prepare and file, by **May 26, 2023**, a pretrial exhibit stipulation that contains each party's numbered list of all trial exhibits with the opposing party's objections to each exhibit, including the basis of the objection and the offering party's brief response. All exhibits to which there are no objections shall be deemed admitted, subject to any objections at trial that could not be raised in advance. Failure to comply with this paragraph could be deemed to constitute a waiver of all objections. Do not submit blanket or boilerplate objections to the opposing party's exhibits. These will be disregarded and overruled.

(b) The pretrial exhibit stipulation shall be substantially in the following form:

Pretrial Exhibit Stipulation

Plaintiff's/Defendant's Exhibits

Exhibit No.	Description	If Objection, State Grounds	Response to Objection
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1 (c) Exhibits shall be pre-marked with the exhibit numbers that will be used
2 at trial. Plaintiff's trial exhibits are to be numbered 1 through 199, and
3 Defendant's exhibits are to be numbered 200 and following.

4 (d) Objections to exhibits and witnesses shall be heard at the final pretrial
5 conference.

6 **13. Trial Procedures**

7 The following procedures shall be utilized at trial:

8 (a) The Court utilizes JERS (Jury Evidence Recording System) to allow
9 evidence admitted for a trial to be viewed electronically via touchscreen
10 monitor in the jury deliberation room upon the conclusion of the trial. Please
11 note that the jury will receive a verbatim copy of the JERS exhibit list. Please
12 carefully review and follow the instructions provided.

13 [JERS Instruction Sheet for Attorneys](#)

14 (b) The Court will conduct the majority of jury voir dire but allow counsel
15 fifteen minutes to ask additional questions or to do more in depth exploration
16 of issues raised by the Court;

17 (c) A total of thirteen jurors will be selected. Plaintiff shall have six
18 peremptory challenges, Defendant shall have ten peremptory challenges, and
19 each party shall have one challenge for the alternate juror. Fed. R. Crim. P.
20 24. The challenges shall be exercised alternately;
21

1 **(d)** Regular trial hours shall be from 8:45 a.m. to 12:00 noon, and 1:15 to
2 4:30 p.m.;

3 **(e)** The jurors will be provided with notebooks for notetaking and a copy of
4 preliminary instructions;

5 **(f)** Documents published to the jury by counsel shall be collected at the
6 conclusion of trial each day or following a witness's testimony regarding the
7 published document;

8 **(g)** A single photograph shall be taken of all witnesses following their
9 testimony for use by the jury to correlate a witness with the testimony he or
10 she provided. The photographs shall be maintained in a three-ring binder by
11 the Court. The photograph will have the witness's name on it and the date of
12 the witness's testimony. The photographs will be provided to the jury to assist
13 them during deliberations. Following deliberations, the photographs will be
14 destroyed by the Court and will not be a part of the record;

15 **(h)** Examination of witnesses shall be limited to direct, cross, redirect and
16 recross. Fed. R. Evid. 611(a);

17 **(i)** Counsel are encouraged to limit requests for sidebars by anticipating
18 legal and evidentiary issues so that the issues may be addressed before trial
19 begins each day, during the lunch hour, or after trial hours;

1 (j) During trial, counsel are encouraged to exchange lists of the next day's
2 witnesses and exhibits so that objections or legal issues may be anticipated
3 and resolved outside the normal trial hours;

4 (k) Counsel shall have the next witness to be called to testify available
5 outside the courtroom, to avoid delay; and

6 (l) An attorney's room for Plaintiff and for Defendant is available. Counsel
7 may inquire with the on-duty Court Security Officer for access to the room.

8 **14.** A Waiver of Speedy Trial Rights was signed by Defendant. ECF No. 44.
9 All time from the trial date of **March 13, 2023**, to the new trial date of **June 5, 2023**,
10 is **EXCLUDED** for speedy trial calculations pursuant to 18 U.S.C. § 3161(h)(7).

11 **15.** All time from the filing of Defendant's Motion to Continue on **February**
12 **6, 2023**, to the date of the hearing on **February 8, 2023**, is excluded for speedy trial
13 calculations pursuant to 18 U.S.C. § 3161(h)(1)(D).

14 **IT IS SO ORDERED.** The District Court Clerk is directed to file this Order
15 and provide copies to counsel.

16 **DATED** February 8, 2023.

17 s/ Rosanna Malouf Peterson
18 ROSANNA MALOUF PETERSON
19 Senior United States District Judge
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